

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Case No. 3:18-cr-00077-MMD-CSD

Plaintiff,

v.

ORDER

HASEEB MALIK; ABDUL MAJID,

Defendants.

Before the Court is Defendants' joint motion to conduct sentencing via Zoom. (ECF No. 144.)¹ The Court agrees with the government that the present circumstances provide no basis for the Court to make a sufficient finding to hold the sentencing via Zoom.

Defendants Haseeb Malik and Abdul Majid entered into guilty pleas on December 21, 2022. (ECF Nos. 135, 138.) The Court accepted Defendants' respective waivers of their right to appear at the change of plea in person. (ECF Nos. 131, 132.) In doing so, the Court found that proceeding with an in-person hearing would present a threat to the safety and health of everyone involved because of the COVID-19 situation at the time, particularly considering what appeared to be a general rise in COVID-19 cases compounded by elevated rates of flu and other respiratory viruses, and the facts that Defendants were on pretrial release, and residing outside of the country requiring travel to this district for an in-person hearing. The Court more specifically proceeded with the virtual hearings under the Order Further Extending Amended Temporary General Order 2020-05 dated December 19, 2022 ("Order"). That Order was recently extended to June 11, 2023.²

¹The government opposes (ECF No. 145) and Defendants replied (ECF No. 146).

²See Order Further Extending Amended Temporary General Order 2020-05 (D. Nev. Mar. 16, 2023), <https://www.nvd.uscourts.gov/wp-content/uploads/2023/03/GO->

1 As pertinent here, General Order 2020-05 authorizes the use of video conferencing
2 for certain criminal hearings provided the presiding judge makes specific findings,
3 including that the sentencing hearing cannot be further delayed without serious harm to
4 the interests of justice. As I found in holding the change of plea hearings by video
5 conference, COVID-19 continues to pose a threat to the health and safety of everyone
6 involved particularly because Defendants would be required to travel from where they
7 reside in Canada to Las Vegas. However, the circumstances relating to COVID-19 have
8 changed since that time. Indeed, while the Order authorizing virtual proceedings was
9 recently extended to June 11, 2023, the risks associated with COVID-19 in the District in
10 general and in Las Vegas in particular are no longer as high as they were at the time of
11 the change of plea hearings in December 2022. Moreover, Defendants do not cite any
12 travel restrictions, their own health conditions, or other limitations relating to COVID-19
13 that would present a threat to the safety and health of everyone involved with an in-person
14 sentencing hearing. And the Court is not aware of any pertinent travel restrictions. For
15 these reasons, the Court cannot find that having an in-person sentencing hearing will
16 present a threat to the health and safety of everyone involved sufficient to support holding
17 the sentencing hearing via video conferencing.

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22 [2020-05-Amended-Temporary-Order-to-06-11-2023.pdf](#). This order extends the
23 videoconferencing authorization for the final time. See *id.* The Court chose an expiration
24 date of June 11, 2023, based on the President's notice of his intent to terminate the
25 COVID-19 national emergency effective May 11, 2023. However, the national emergency
26 may end earlier given Congress's passage of a joint resolution ending the national
27 emergency immediately upon its effective date. See *H.J.Res.7 - 118th Congress (2023-2024): Relating to a national emergency declared by the President on March 13, 2020*,
28 H.J.Res.7, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/house-joint-resolution/7> (indicating that the bill has been sent to the President but has not yet become law as of April 10, 2023). If the President signs Resolution 7, the Court would, in turn, terminate the Order earlier. That said, the Court does not consider when the Order is expected to terminate in denying Defendants' joint motion.

1 It is therefore ordered that the joint motion to conduct sentencing via Zoom (ECF
2 No. 144) is denied.³

3 DATED THIS 10th Day of April 2023.



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5 MIRANDA M. DU
6 CHIEF UNITED STATES DISTRICT JUDGE
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³The Court will consider a request to change the sentencing date to accommodate
counsel's availability.